

BERNALILLO COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2016-18

ARTICLE VI. – PAWNBROKERS, SECONDHAND DEALERS, AND PRECIOUS METALS DEALERS^[5]

Footnotes:

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State Law reference— Pawnbrokers generally, NMSA 1978, § 56-12-1 et seq.; local ordinances regulating pawnbrokers, NMSA 1978, § 56-12-5; Used Merchandise Act, NMSA 1978, § 57-9-1 et seq. regulating the purchase of used good including precious metals.

Sec. 14-231. - Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Identification. A valid New Mexico driver's license, a valid armed forces identification card or a valid passport.

Licensee. Any individual, partnership, company, corporation, firm, association, trust, estate or legal entity, that owns any entity operating a business described in this article.

Pawnbroker. A person engaged in the business of making pawn transactions.

Precious Metals. Gold, silver, platinum or gems in coin, bullion or other form.

Secondhand Dealer. Any owner, operator, employee or contractor at any pawnshop, secondhand store, junkshop, automobile salvage or wreckage establishment or any place of operation for dealing in or purchasing gold, silver or platinum.

(Ord. No. 2016-____, 16)

Sec. 14-232. - Business registration certificate required.

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PAWNBROKERS, SECONDHAND DEALERS, AND PRECIOUS METALS DEALERS.

No pawnbroker, secondhand or precious metals dealer shall engage in business without a business registration certificate.

(Ord. No. 16, § 2, 9-20-65; Ord. No. 2016-____, 16)

Sec. 14-233. - Bond required.

No pawnbroker, secondhand or precious metals dealer shall engage in business without having executed and delivered a bond to the county, to be approved by the county manager and sheriff, in the penal sum of \$10,000.00, with a corporate surety authorized by the laws of the state to write surety bonds therein, and conditioned for the conduct of such pawnbroker's business according to law and for the due and faithful observance of each and every provision of this article. Such bond shall be for the benefit of the county and of each and every person damaged by a breach of any condition thereof.

(Ord. No. 16, § 2, 9-20-65; Ord. No. 2016-____, 16)

State Law reference— Pawnbroker's bond, NMSA 1978, § 56-12-5.

Sec. 14-234. - Dealings with minors, the intoxicated, known thieves, and serial numbers.

It shall be unlawful for any pawnbroker, secondhand or precious metals dealer to buy or accept property as a pledge:

(a) from any minor; to buy or accept property as a pledge from any person who is at the time intoxicated, or from a habitual drunkard or drug addict; or from any person known by him or them to be a thief or an associate of thieves, or a receiver of stolen property;

(b) from which the manufacturer's name plate, serial number or distinguishing number or identification mark has been obviously defaced, altered, covered or destroyed;

(c) any property that the licensee knows or should have known is not lawfully owned by the person offering the same.

(Ord. No. 16, § 5, 9-20-65; Ord. No. 2016-____, 16)

Sec. 14-235. - Reports and records.

(a) Every pawnbroker, secondhand or precious metals dealer shall each day accurately complete a report of all used property of every kind received or purchased in a pawn or other transaction during the preceding business day on a form approved by the county sheriff. Either a driver's license or other photo identification card shall be required of each person entering into a transaction with a pawnbroker or secondhand dealer. Each item received shall be listed on a separate report form.

Such report shall include the following:

(1) Name of item;

(2) Description of the item including make and model number, if any;

(3) Serial number and other identifying marks, if any;

(4) Date, time and type of pawn, sale or purchase transaction;

(5) Name and address of person offering the item;

(6) Description of the person offering the item including sex, complexion, hair color, approximate height and weight, and date of birth; and

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(7) Type of identification used by person offering item and identifying number of such identification. If the person presents a driver's license, the report shall also indicate the date of issuance.

(b) All reports required by this section shall be completed accurately and be made available by 12:00 noon of the day following the day of the transaction and shall be delivered or mailed to the county sheriff within three days of the transaction.

(c) Property purchased directly from a permit holder regulated by the Pawnbrokers Act (NMSA 1978, § 56-12-1 et seq.) who has already reported the item pursuant to this section is exempt from the requirements of this section.

(d) Persistent or frequent erroneous or incomplete entries in or delays in the submitting of the reports shall constitute a misdemeanor.

(e) The reports and records required pursuant to this section, as well as every item received in pawn, shall be available for inspection by the board of county commissioners, the attorney general, the county sheriff or any sworn member of the sheriff's department at all reasonable times.

(f) Each item pledged to or purchased by the pawnbroker, secondhand or precious metals dealer for which a report is required shall have attached to it a tag with an alphabetic or numerical identification system matching that item with its corresponding report and record.

(Ord. No. 16, §§ 3, 4, 6, 7, 9-20-65; Ord. No. 2016-____, 16)

State Law reference— Similar provisions, NMSA 1978, § 56-12-9.

Sec. 14-236. Disposition of Property.

(a) No personal property pawned or pledged shall be sold or disposed of, except by redemption, by any pawnbroker within 120 days from the time said personal property was pawned or pledged with the pawnbroker or within 90 days after the indebtedness becomes due, whichever is later.

(b) No pawnbroker, secondhand or precious metals dealer shall sell, alter, otherwise dispose of or remove from the business premises any item of purchased used merchandise within 15 days from the date said item is received into inventory. This excludes new items or those items from other licensed pawnbrokers, secondhand or precious metals dealers.

(Ord. No. 2016-____, 16)

Sec. 14-237. Used Merchandise Tags.

Each item pledged or purchased by a pawnbroker, secondhand or precious metals dealer that is required to be included in the report mandated under this Article shall have attached thereto a tag with an alphabetic and/or numeric identification system matching the item with its corresponding report and record.

(Ord. No. 2016-____, 16)

Sec. 14-238. Suspension or Revocation of License; Notice; Hearing.

(a) The county manager may institute proceedings for the suspension or revocation of any business license issued pursuant to this Article upon the filing of a written complaint by the Sheriff or his/her designated representative charging the pawnbroker or secondhand dealer, or employee thereof, of having violated any one or more provisions of this Article.

1 (b) The county manager shall serve written notice on the pawnbroker or secondhand
2 dealer of the alleged violation. The notice requirement is satisfied if personal service is
3 made on the owner of the business or is posted in a conspicuous place on the business
4 premises.

5 (c) The county manager shall set a date for an administrative hearing on such
6 complaint not more than 20, but not less than 10, days from the date of notice unless
7 expressly waived by all the parties. The notice provided in section (b) immediately
8 above shall specify the date, time, and location of the hearing.

9 (d) The pawnbroker, secondhand or precious metals dealer, and any other interested
10 person shall have the right to appear at such administrative hearing and present
11 evidence. The rules of evidence shall not apply. The hearing shall be recorded and all
12 evidence shall be marked and retained until the expiration of all applicable time limits for
13 appeal.

14 (e) If, after the administrative hearing, the county manager or designee determines that
15 the pawnbroker, secondhand or precious metals dealer is in violation of the provisions
16 of this Article as charged in the complaint he/she shall issue a written order. Said
17 written order may suspend the business license for a stated period or be a permanent
18 revocation. The county manager shall cause such order to be served upon the licensee
19 by first class mail and filed with the county clerk for public inspection within five
20 business days after the hearing. The hearing shall be the final administrative remedy.
21 Any person aggrieved by the decision may appeal to the Second Judicial District Court.
22 Said appeal shall be subject to the Rules of Civil Procedure for the District Courts.

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(f) Acts or omissions in violation of this article constitute grounds for revocation or suspension of a license issued under this article are also grounds for the county manager to commence a civil or criminal prosecution for any violation of this article and seek the penalties provided in section 1-6 of the Bernalillo County Code.

(Ord. No. 2016-____, 16)

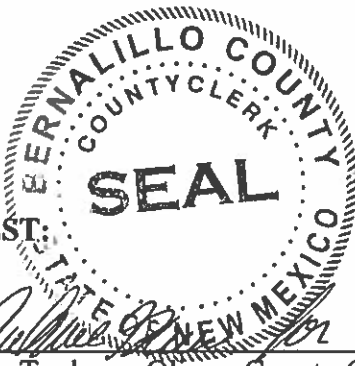
**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
BERNALILLO COUNTY, NEW MEXICO** this 28th day of June, 2016.

APPROVED AS TO FORM



W. Ken Martinez, County Attorney

ATTEST:


Maggie Toulouse Oliver, County Clerk



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